



Paper No. 42

WAYNE J. COLTON, INC.  
THE MILAM BUILDING SUITE 1032  
115 EAST TRAVIS STREET  
SAN ANTONIO, TX 78205

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OFFICE OF PETITIONS

In re Application of  
John H. Vrzalik  
Application No. 08/904,121  
Filed: July 31, 1997  
Attorney Docket No. 1001.1020

ON PETITION

This is a decision on the petition, filed April 22, 2002 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed August 2, 2000. A shortened statutory period of three months was set for replying to the final Office Action. A Notice of Appeal was filed November 6, 2000. In response, an Office Communication was mailed on November 20, 2000 stating that the Notice of Appeal was not acceptable because the appeal fee required under 37 CFR 1.17(b) was not filed due to insufficient funds in Deposit Account No. 50-0489. Another Notice of Appeal with a two-month Extension of Time was filed January 9, 2001. Since no Appeal Brief was filed, this application became abandoned on March 10, 2001. Accordingly, a Notice of Abandonment was mailed August 22, 2001.

Petitioner has submitted a Continued Prosecution Application (CPA) with the present petition.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

This application is being forwarded to Technology Center 3600 for processing of the CPA.

Telephone inquiries concerning this matter may be directed to Doris To at (703) 305-4066 or to the undersigned Petitions Attorney in the Office of Petitions at (703) 305-4497.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy